

HONORABLE ROBERT BRYAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL ALEXANDER
FRIEDMANN,

Plaintiff,

v.

THE STATE OF WASHINGTON,
WASHINGTON STATE PATROL, a
Washington State Agency, CHRISTINE
GREGOIRE, and "JOHN DOE"
GREGOIRE, CHIEF JOHN BATISTE
and "JANE DOE" BATISTE,
SERGEANT TOM OLSEN, and "JANE
DOE" OLSEN, SERGEANT SAM E.
RAMIREZ and "JANE DOE"
RAMIREZ, SERGENT TOM MARTIN
and "JANE DOE" MARTIN,
DETECTIVE JULI GUNDERMAN,
formerly Juli Mitchell and "JOHN DOE"
GUNDERMAN, TROOPER
NICHOLAS CASTO and "JANE DOE"
CASTO, TROOPER JAMES
MELDRUM and "JANE DOE"
MELDRUM, TROOPER
CHRISTOPHER NOLL and "JANE
DOE" NOLL, TROOPER ROBERT E.

NO. C09-5761RJB

DEFENDANTS' ANSWER TO
PLAINTIFF'S COMPLAINT FOR
DAMAGES.

DEFENDANTS' ANSWER TO
PLAINTIFF'S COMPLAINT FOR
DAMAGES

1 HOWESON, and "JANE DOE"
 2 HOWSON, MICHAEL HOPKINS and
 3 'JANE DOE' HOPKINS,
 4 LIEUTENANT SEAN HARTSOCK and
 5 "JOHN DOE" HARTSOCK, STEVEN
 6 OSTRANDER and "JANE DOE"
 7 OSTRANDER, TERRY FRANKLIN
 8 and "JANE DOE" FRANKLIN,
 9 LIEUTENANT JULIE JOHNSON and
 10 "JOHN DOE" JOHNSON, the latter
 11 respectively, husband and wife,

12 Defendants.

13 **STATE'S ANSWER TO PLAINTIFF'S COMPLAINT**

14 Defendants, State of Washington, Washington State Patrol, Christine O. Gregoire, John
 15 Batiste, Tom Olsen, Sam Ramirez, Tom Martin, Juli Gunderman, Nicholas Casto, James
 16 Meldrum, Christopher Noll, Robert Howson, Michael Hopkins, Sean Hartsock, Steven Ostrander,
 17 Terry Franklin, and Julie Johnson (hereinafter "Defendants"), in answer to Plaintiff's Complaint
 18 for Damages (hereinafter "Plaintiff's Complaint"), admits, denies, and alleges as follows:

19 **I. PLAINTIFF AND DEFENDANTS**

20 1.1 Defendants lack sufficient knowledge to either admit or deny the allegations
 21 contained in paragraph 1.1 of Plaintiff's Complaint and therefore deny same.

22 1.2 Defendants admit paragraph 1.2 of Plaintiff's Complaint.

23 1.3 Defendants lack sufficient knowledge to either admit or deny the allegations
 24 contained in paragraph 1.3 of Plaintiff's Complaint or therefore deny same.

25 **II. JURISDICTION**

26 2.1 Defendants admit that this Court has jurisdiction over the subject matter.
 Defendants deny the remainder of the allegations contained in paragraph 2.1 of Plaintiff's
 Complaint.

27 **II. FACTS OF INCIDENTS GIVING RISE TO COMPLAINT FOR DAMAGES**

28 3.1 Defendants admit that Troopers Howson, Casto, Noll, Meldrum, Durbin and
 29 Sergeant Martin assisted in the stop of Plaintiff's vehicle on November 3, 2007. Defendants lack
 30 sufficient knowledge to either admit or deny allegations regarding the presence of Steven Jones

1 and therefore deny same. Defendants deny the remainder of the allegations contained in
2 paragraph 3.1 of Plaintiff's Complaint.

3 3.2 Defendants admit that they were first alerted to Plaintiff's actions by a 911 call.
4 Defendants deny the remainder of the allegations contained in paragraph 3.2 of Plaintiff's
5 Complaint.

6 3.3 Defendants admit that Randy Flores placed a call to 911 at approximately 9:30
7 a.m. on November 3, 2007 regarding a "white police car". Defendants admit that Trooper Noll
8 states that he was notified of the 911 call at approximately 9:30 a.m. on November 3, 2007.
9 Defendants deny the remainder of the allegations contained in paragraph 3.3 of Plaintiff's
10 Complaint.

11 3.4 Defendants admit that Randy Flores gave a statement stating that a "white police
12 car" approached him from behind on Southbound I-5 on November 3, 2007, at approximately
13 9:30 a.m. and "flashed its brights". Defendants admit that Mr. Flores gave a description of the
14 driver of the "white police car", which included a brown jacket and a tattoo on the driver's left
15 forearm. Defendants deny the remainder of the allegations contained in paragraph 3.4 of
16 Plaintiff's Complaint.

17 3.5 Defendants deny the allegations contained in paragraph 3.5 of Plaintiff's
18 Complaint.

19 3.6 Defendants deny the allegations contained in paragraph 3.6 of Plaintiff's
20 Complaint.

21 3.7 Defendants lack sufficient knowledge to either admit or deny allegations contained
22 in paragraph 3.7 of Plaintiff's Complaint related to Mr. Flores's ability to determine or assess
23 Plaintiff's rate of speed on the day in questions and therefore deny same. Defendants deny the
24 remainder of the allegations contained in paragraph 3.7 of Plaintiff's Complaint.

25 3.8 Defendants deny the allegations contained in paragraph 3.8 of Plaintiff's
26 Complaint.

3.9 Defendants admit that the CAD Log indicates that the original 911 call regarding
the incident in question came in at 9:26 a.m. on November 3, 2007. The CAD Log speaks for
itself. Defendants also admit that Mr. Flores gave a license plate number to the 911 operator.

1 Defendants deny the remainder of the allegations contained in paragraph 3.9 of Plaintiff's
2 Complaint.

3 3.10 Defendants admit that the 911 tape related to the stop on November 3, 2007 was
4 destroyed pursuant to RCW 40.14 on February 12, 2008. Defendants deny the remainder of the
5 allegations contained in paragraph 3.10 of Plaintiff's Complaint.

6 3.11 Defendants deny the allegations contained in paragraph 3.11 of Plaintiff's
7 Complaint.

8 3.12 Defendants lack sufficient knowledge to either admit or deny allegations relating
9 to whether the spotlight on Plaintiff's vehicle was in working order. The Defendants deny the
10 remainder of the allegations contained in paragraph 3.12 of Plaintiff's Complaint.

11 3.13 Defendants deny the allegations contained in paragraph 3.13 of Plaintiff's
12 Complaint.

13 3.14 Defendants admit that Plaintiff was arrested and that his firearms were taken into
14 evidence. State Defendants admit that Plaintiff's firearms were returned to him on or about July
15 28, 2008. State Defendants deny the remainder of the allegations contained in paragraph 3.14 of
16 Plaintiff's Complaint.

17 3.15 Defendants admit that Detective Mitchell's Investigation Log Report appears to
18 have an error regarding the date on which she contacted Randy Flores. Defendants deny the
19 remainder of the allegations contained in paragraph 3.15 of Plaintiff's Complaint.

20 3.16 Defendants admit that Detective Mitchell's Investigation Log Report appears to
21 have an error regarding the date on which she contacted Randy Flores. Defendants admit that Mr.
22 Flores's call was made at approximately 9:30 a.m. on November 3, 2007. Defendants deny the
23 remainder of the allegations contained in paragraph 3.16 of Plaintiff's Complaint.

24 3.17 Defendants lack sufficient knowledge to either admit or deny allegations related to
25 complaints filed by Plaintiff against any particular Washington State Trooper and therefore deny
26 same. Defendants admit that Troopers Howson, Castro, Noll, Meldrum, and Durbin initiated the
27 traffic stop of Plaintiff's vehicle on November 3, 2007. Defendants deny the remainder of the
28 allegations contained in paragraph 3.17 of Plaintiff's Complaint.

29 3.18 Defendants lack sufficient knowledge to either admit or deny the allegations
30 related to Detective Mitchell's conversation with Colonel Robert U. Schultz, Jr., and therefore

1 deny same. Defendants deny the remainder of the allegations contained in paragraph 3.18 of
2 Plaintiff's Complaint.

3 3.19 Defendants deny the allegations contained in paragraph 3.19 of Plaintiff's
4 Complaint.

5 3.20 Defendants deny the allegations contained in paragraph 3.20 of Plaintiff's
6 Complaint.

7 3.21 Defendants admit that Plaintiff was driving on Southbound I-5 at the time of the
8 incident. Defendants lack sufficient knowledge to either admit or deny the allegations related to
9 the Plaintiff's destination on November 3, 2007, and whether he had a valid Concealed Pistol
10 License from any State. Defendants deny the remainder of the allegations contained in paragraph
11 3.21 of Plaintiff's Complaint.

12 3.22 The Defendants lack sufficient knowledge to either admit or deny allegations
13 related to the alleged press release described by Plaintiff in paragraph 3.22 of his Complaint and
14 therefore deny same. Defendants deny the remainder of the allegations contained in paragraph
15 3.22 of Plaintiff's Complaint.

16 3.23 Defendants deny the allegations contained in paragraph 3.23 of Plaintiff's
17 Complaint.

18 3.24 Defendants admit that Plaintiff's property was returned to him on or about July 28,
19 2008. Defendants deny the remainder of the allegations contained in paragraph 3.24 of Plaintiff's
20 Complaint.

21 3.25 Defendants deny the allegations contained in paragraph 3.25 of Plaintiff's
22 Complaint.

23 3.26 Defendants admit that Plaintiff's firearms were taken into evidence on November
24 3, 2007 and returned to him on or about July 28, 2008. Defendants also admit that the three
25 handguns were sent to the Tacoma Crime Laboratory for Integrated Ballistics Identification
26 System checks. The Defendants deny the remainder of the allegations contained in paragraph
3.26 of Plaintiff's Complaint.

3.27 There is no paragraph 3.27 in Plaintiff's Complaint.

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3.29 Defendants deny the allegations contained in paragraph 3.29 of Plaintiff's Complaint.

3.29 Defendants deny the allegations contained in paragraph 3.29 of Plaintiff's Complaint.

3.30 Defendants deny the allegations contained in paragraph 3.30 of Plaintiff's Complaint.

3.31 Defendants admit that they had reason to initiate a traffic stop with Plaintiff. Defendants deny the remainder of the allegations contained in paragraph 3.31 of Plaintiff's Complaint.

IV LIABILITY AND DAMAGES

A. FIRST CAUSE OF ACTION: FALSE ARREST

4A.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4A.2 Defendants deny the allegations contained in paragraph 4A.1 of Plaintiff's Complaint.

4A.3 Defendants deny the allegations contained in paragraph 4A.3 of Plaintiff's Complaint.

B. SECOND CASUE OF ACTION: FALSE IMPRISONMENT

4B.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4B.2 Defendants deny the allegations contained in paragraph 4B.2 of Plaintiff's Complaint.

C. THIRD CAUSE OF ACTION: VIOLATION OF TITLE 42 U.S.C § 1983

4C.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4C.2 As to the Plaintiff's statement of the law, the law speaks for itself. Defendants deny all factual and legal allegations contained in paragraph 4C.2 of Plaintiff's Complaint.

4C.3 Defendants deny the allegations contained in paragraph 4C.3 of Plaintiff's Complaint.

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D. FOURTH CAUSE OF ACTION: NEGLIGENT SUPERVISION AND HIRING

4D.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4D.2 Defendants deny the allegations contained in paragraph 4D.2 of Plaintiff's Complaint.

4D.3 Defendants deny the allegations contained in paragraph 4D.3 of Plaintiff's Complaint.

E. FIFTH CAUSE OF ACTION: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

4E.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4E.2 Defendants deny the allegations contained in paragraph 4E.2 of Plaintiff's Complaint.

F. SIXTH CAUSE OF ACTION: DEFAMATION, LIBEL, AND SLANDER

4F.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4F.2 Defendants deny the allegations contained in paragraph 4F.2 of Plaintiff's Complaint.

G. SEVENTH CAUSE OF ACTION: HARASSMENT

4G.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4G.2 Defendants lack sufficient knowledge to either admit or deny allegations related to complaints filed by Plaintiff against any particular Washington State Trooper and therefore deny same. Defendants deny the remainder of the allegations contained in paragraph 4G.2 of Plaintiff's Complaint.

4G.3 Defendants deny the allegations contained in paragraph 4G.3 of Plaintiff's Complaint.

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H. EIGHTH CAUSE OF ACTION: MALICIOUS PROSECUTION

4H.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4H.2 Defendants deny the allegations contained in paragraph 4H.2 of Plaintiff's Complaint.

I. NINTH CAUSE OF ACTION: SEARCH WITHOUT WARRANT

4I.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4I.2 Defendants deny the allegations contained in paragraph 4I.2 of Plaintiff's Complaint.

4I.3 Defendants deny the allegations contained in paragraph 4I.3 of Plaintiff's Complaint.

J. TENTH CAUSE OF ACTION: DENIAL OF CIVIL RIGHTS

4J.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4J.2 Defendants deny the allegations contained in paragraph 4J.2 of Plaintiff's Complaint.

4J.3 Defendants deny the allegations contained in paragraph 4J.3 of Plaintiff's Complaint.

K. ELEVENTH CAUSE OF ACTION: ARREST WITHOUT WARRANT

4K.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4K.2 Defendants deny the allegations contained in paragraph 4K.2 of Plaintiff's Complaint.

4K.3 Defendants deny the allegations contained in paragraph 4K.3 of Plaintiff's Complaint.

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L. TWELFTH CAUSE OF ACTION: MALICIOUS MISCHIEF IN THE FIRST DEGREE

4L.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4L.2 Defendants deny the allegations contained in paragraph 4L.2 of Plaintiff's Complaint.

M. THIRTEENTH CAUSE OF ACTION: ASSAULT IN THE FIRST DEGREE

4M.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4M.2 Defendants deny the allegations contained in paragraph 4M.2 of Plaintiff's Complaint.

4M.3 Defendants deny the allegations contained in paragraph 4M.3 of Plaintiff's Complaint.

N. FOURTEENTH CAUSE OF ACTION: ASSAULT IN THE SECOND DEGREE

4N.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4N.2 Defendants deny the allegations contained in paragraph 4N.2 of Plaintiff's Complaint.

4N.3 Defendants deny the allegations contained in paragraph 4N.3 of Plaintiff's Complaint.

O. FIFTEENTH CAUSE OF ACTION: RECKLESS ENDANGERMENT

4O.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4O.2 Defendants deny the allegations contained in paragraph 4O.2 of Plaintiff's Complaint.

P. SIXTEENTH CAUSE OF ACTION: COERCION

4P.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

4P.2 Defendants deny the allegations contained in paragraph 4P.2 of Plaintiff's Complaint.

1 4P.3 Defendants deny the allegations contained in paragraph 4P.3 of Plaintiff's
2 Complaint.

3 **Q. SEVENTEENTH CAUSE OF ACTION: MALICIOUS HARASSMENT**

4 Q.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate
5 them herein as if set forth in full.

6 Q.2 Defendants deny the allegations contained in paragraph Q.2 of Plaintiff's
7 Complaint.

8 **R. EIGHTEENTH CAUSE OF ACTION: KIDNAPPING IN THE FIRST DEGREE**

9 R.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate
10 them herein as if set forth in full.

11 R.2 Defendants deny the allegations contained in paragraph R.2 of Plaintiff's
12 Complaint.

13 R.3 Defendants deny the allegations contained in paragraph R.2 of Plaintiff's
14 Complaint.

15 **S. NINETEENTH CAUSE OF ACTION: UNLAWFUL IMPRISONMENT**

16 S.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate
17 them herein as if set forth in full.

18 S.2 Defendants deny the allegations contained in paragraph S.2 of Plaintiff's
19 Complaint.

20 S.3 Defendants deny the allegations contained in paragraph S.3 of Plaintiff's
21 Complaint.

22 **T. TWENTIETH CAUSE OF ACTION: STALKING**

23 T.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate
24 them herein as if set forth in full.

25 T.2 Defendants lack sufficient knowledge to either admit or deny allegations related to
26 Defendants' previous interactions with Plaintiff and therefore deny same. Defendants deny the
remainder of the allegations contained in paragraph T.2 of Plaintiff's Complaint.

U. TWENTY-FIRST CAUSE OF ACTION: ROBBERY IN THE FIRST DEGREE

U.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

U.2 Defendants deny the allegations contained in paragraph U.2 of Plaintiff's Complaint.

U.3 Defendants deny the allegations contained in paragraph U.3 of Plaintiff's Complaint.

V. TWENTY-SECOND CAUSE OF ACTION: PERJURY IN THE FIRST DEGREE

V.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

V.2 Defendants deny the allegations contained in paragraph V.2 of Plaintiff's Complaint.

V.3 Defendants deny the allegations contained in paragraph V.3 of Plaintiff's Complaint.

W. TWENTY-THIRD CAUSE OF ACTION: PERJURY AND FALSE SWEARING

W.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

W.2 Defendants deny the allegations contained in paragraph W.2 of Plaintiff's Complaint.

W.3 Defendants deny the allegations contained in paragraph W.3 of Plaintiff's Complaint.

X. TWENTY-FOURTH CAUSE OF ACTION: TAMPERING WITH PHYSICAL EVIDENCE

X.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

X.2 Defendants admit that the 911 tape related to the stop on November 3, 2007 was destroyed pursuant to RCW 40.14 on February 12, 2008. Defendants deny the remainder of the allegations contained in paragraph X.2 of Plaintiff's Complaint.

X.3 Defendants deny the allegations contained in paragraph X.3 of Plaintiff's Complaint

Y. TWENTY-FIFTH CAUSE OF ACTION: OFFICIAL MISCONDUCT

Y.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

Y.2 Defendants deny the allegations contained in paragraph Y.2 of Plaintiff's Complaint.

Y.3 Defendants deny the allegations contained in paragraph Y.3 of Plaintiff's Complaint.

Y.4 Defendants deny the allegations contained in paragraph Y.4 of Plaintiff's Complaint.

Y.5 Defendants deny the allegations contained in paragraph Y.5 of Plaintiff's Complaint.

Y.6 Defendants admit that on December 1, 2008, Mr. Hopkins asked for a copy of the affidavit referred to by Plaintiff in his November 18, 2008 letter. Defendants deny the remainder of the allegations contained in paragraph Y.6 of Plaintiff's Complaint.

Y.7 Defendants deny the allegations contained in paragraph Y.7 of Plaintiff's Complaint.

Y.8 Defendants deny the allegations contained in paragraph Y.8 of Plaintiff's Complaint.

Z. TWENTY-SIXTH CAUSE OF ACTION: VIOLATION OF THE FIRST AMENDMENT, FREEDOM OF RELIGION, FREEDOM OF SPEECH, FREEDOM OF ASSEMBLY

Z.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate them herein as if set forth in full.

Z.2 Defendants deny the allegations contained in paragraph Z.2 of Plaintiff's Complaint.

Z.3 To the extent that paragraph Z.3 of Plaintiff's Complaint calls for a legal conclusion, the Defendants neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph Z.3 of Plaintiff's Complaint.

1 Z.4 Defendants deny the allegations contained in paragraph Z.4 of Plaintiff's
2 Complaint.

3 **AA. TWENTY-SEVENTH CAUSE OF ACTION: VIOLATION OF THE**
4 **SECOND AMENDMENT, RIGHT TO BEAR ARMS**

5 AA.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate
6 them herein as if set forth in full.

7 AA.2 Defendants deny the allegations contained in paragraph AA.2 of Plaintiff's
8 Complaint.

9 AA.3 To the extent that paragraph AA.3 of Plaintiff's Complaint calls for a legal
10 conclusion, the Defendants neither admit nor deny.

11 AA.4 To the extent that Plaintiff quotes various publications in paragraph AA.4 of his
12 Complaint, Defendants neither admit nor deny. Defendants deny the remainder of the allegations
13 contained in paragraph AA.4 of Plaintiff's Complaint.

14 AA.5 Defendants deny the allegations contained in paragraph AA.5 of Plaintiff's
15 Complaint.

16 **BB. TWENTY-EIGHTH CAUSE OF ACTION: VIOLATION OF THE FOURTH**
17 **AMENDMENT, PROTECTION AGAINST ILLEGAL SEARCH AND SEIZURE**

18 BB.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate
19 them herein as if set forth in full.

20 BB.2 Defendants deny the allegations contained in paragraph BB.2 of Plaintiff's
21 Complaint.

22 BB.3 To the extent that paragraph BB.3 calls for a legal conclusion, the Defendants
23 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
24 BB.3 of Plaintiff's Complaint.

25 BB.4 To the extent that paragraph BB.4 calls for a legal conclusion, the Defendants
26 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
BB.4 of Plaintiff's Complaint.

BB.5 To the extent that paragraph BB.5 calls for a legal conclusion, the Defendants
neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
BB.5 of Plaintiff's Complaint

1 BB.6 To the extent that paragraph BB.6 calls for a legal conclusion, the Defendants
 2 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 3 BB.6 of Plaintiff's Complaint.

4 BB.7 To the extent that paragraph BB.7 calls for a legal conclusion, the Defendants
 5 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 6 BB.7 of Plaintiff's Complaint.

7 BB.8 To the extent that paragraph BB.8 calls for a legal conclusion, the Defendants
 8 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 9 BB.8 of Plaintiff's Complaint.

10 BB.9 To the extent that paragraph BB.9 calls for a legal conclusion, the Defendants
 11 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 12 BB.9 of Plaintiff's Complaint.

13 BB.10 To the extent that paragraph BB.10 calls for a legal conclusion, the Defendants
 14 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 15 BB.10 of Plaintiff's Complaint

16 BB.11 To the extent that paragraph BB.11 calls for a legal conclusion, the Defendants
 17 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 18 BB.11 of Plaintiff's Complaint

19 BB.12 Defendants deny the allegations contained in paragraph BB.12 of Plaintiff's
 20 Complaint.

21 **CC. TWENTY-NINTH CAUSE OF ACTION: VIOLATION OF THE FIFTH**
 22 **AMENDMENT, RIGHT TO DUE PROCESS, DESTRUCTION OF EVIDENCE**

23 CC.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate
 24 them herein as if set forth in full.

25 CC.2 Defendants deny the allegations contained in paragraph CC.2 of Plaintiff's
 26 Complaint.

CC.3 To the extent that paragraph CC.3 calls for a legal conclusion, the Defendants
 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 CC.3 of Plaintiff's Complaint.

1 CC.4 To the extent that paragraph CC.4 calls for a legal conclusion, the Defendants
 2 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 3 CC.4 of Plaintiff's Complaint.

4 CC.5 To the extent that paragraph CC.5 calls for a legal conclusion, the Defendants
 5 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 6 CC.5 of Plaintiff's Complaint.

7 CC.6 To the extent that paragraph CC.6 calls for a legal conclusion, the Defendants
 8 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 9 CC.6 of Plaintiff's Complaint.

10 **DD. THIRTEENTH CAUSE OF ACTION: VIOLATION OF THE SIXTH**
 11 **AMENDMENT, RIGHT TO SPEEDY TRIAL**

12 DD.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate
 13 them herein as if set forth in full.

14 DD.2 Defendants deny the allegations contained in paragraph DD.2 of Plaintiff's
 15 Complaint.

16 DD.3 Defendants deny the allegations contained in paragraph DD.3 of Plaintiff's
 17 Complaint.

18 DD.4 Defendants deny the allegations contained in paragraph DD.4 of Plaintiff's
 19 Complaint.

20 DD.5 Defendants deny the allegations contained in paragraph DD.5 of Plaintiff's
 21 Complaint.

22 **EE. THIRTY-FIRST CAUSE OF ACTION: VIOLATION OF THE EIGHTH**
 23 **AMENDMENT, PROTECTION AGAINST CRUEL AND UNUSUAL PUNISHMENT**

24 EE.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate
 25 them herein as if set forth in full.

26 EE.2 To the extent that paragraph EE.2 calls for a legal conclusion, the Defendants
 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 EE.2 of Plaintiff's Complaint.

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1 EE.3 To the extent that paragraph EE.3 calls for a legal conclusion, the Defendants
 2 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 3 EE.3 of Plaintiff's Complaint.

4 EE.4 To the extent that paragraph EE.4 calls for a legal conclusion, the Defendants
 5 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 6 EE.4 of Plaintiff's Complaint.

7 **FF. THIRTY-SECOND CAUSE OF ACTION: VIOLATION OF THE**
 8 **FOURTEENTH AMENDMENT, PROVIDING EQUAL PROTECTION**

9 FF.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate
 10 them herein as if set forth in full.

11 FF.2 To the extent that paragraph FF.2 calls for a legal conclusion, the Defendants
 12 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 13 FF.2 of Plaintiff's Complaint.

14 FF.3 To the extent that paragraph FF.3 calls for a legal conclusion, the Defendants
 15 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 16 FF.3 of Plaintiff's Complaint.

17 FF.4 Defendants deny the allegations contained in paragraph FF.4 of Plaintiff's
 18 Complaint.

19 FF.5 Defendants deny the allegations contained in paragraph FF.4 of Plaintiff's
 20 Complaint.

21 **GG. THIRTY-THIRD CAUSE OF ACTION: VIOLATION OF THE CIVIL**
 22 **RIGHTS ACT OF 1964**

23 GG.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate
 24 them herein as if set forth in full.

25 GG.2 To the extent that paragraph GG.2 calls for a legal conclusion, the Defendants
 26 neither admit nor deny. Defendants deny the remainder of the allegations contained in paragraph
 GG.2 of Plaintiff's Complaint.

GG.3 Defendants deny the allegations contained in paragraph GG.3 of Plaintiff's
 Complaint.

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1 GG.4 Defendants deny the allegations contained in paragraph GG.4 of Plaintiff's
2 Complaint.

3 **HH. THIRTY-FOURTH CAUSE OF ACTION: WASHINGTON STATE**
4 **PATROL-RESPONDEAT SUPERIOR**

5 HH.1 Defendants reallege their answers to paragraphs 3.1 through 3.31 and incorporate
6 them herein as if set forth in full

7 HH.2 Defendants admit that they were acting within the scope of their employment.
8 Defendants deny the remainder of paragraph HH.2 of Plaintiff's Complaint.

9 **V. PRAYER FOR RELIEF**

10 State Defendants deny that Plaintiff is entitled to any of the requested relief.

11 **AFFIRMATIVE DEFENSES**

12 By Way of FURTHER ANSWER and FIRST AFFIRMATIVE DEFENSE, Defendants
13 allege that the summons and complaint were never properly served upon the Defendants.

14 By Way of FURTHER ANSWER and SECOND AFFIRMATIVE DEFENSE,
15 Defendants allege that the court in which this action has been commenced is not the proper venue
16 for said action.

17 By Way of FURTHER ANSWER and THIRD AFFIRMATIVE DEFENSE, Defendants
18 allege that the court lacks jurisdiction over the subject matter of this action and/or over the person
19 of the Defendants

20 By Way of FURTHER ANSWER and FOURTH AFFIRMATIVE DEFENSE,
21 Defendants allege that the Plaintiff has failed to file a sufficient claim against the State of
22 Washington as required by RCW 4.92.100 and .110.

23 By Way of FURTHER ANSWER and FIFTH AFFIRMATIVE DEFENSE, Defendants
24 allege that the injuries and damages, if any, claimed by the Plaintiff were proximately caused or
25 contributed to by the fault of Plaintiff as defined by RCW 4.22.015.

26 By Way of FURTHER ANSWER and SIXTH AFFIRMATIVE DEFENSE, Defendants
allege that the Plaintiff has failed to state a claim upon which relief may be granted.

By Way of FURTHER ANSWER and SEVENTH AFFIRMATIVE DEFENSE,
Defendants allege that the Plaintiff lacks capacity to sue.

1 By Way of FURTHER ANSWER and EIGHTH AFFIRMATIVE DEFENSE, Defendants
 2 allege that if the Plaintiff sustained any injury or damage, the same was provoked by the conduct
 3 of the Plaintiff.

4 By Way of FURTHER ANSWER and NINTH AFFIRMATIVE DEFENSE, Defendants
 5 allege that the Defendants at all times acted in good faith in the performance of their duties and
 6 are therefore immune from suit for the matters charged in Plaintiff's Complaint.

7 By Way of FURTHER ANSWER and TENTH AFFIRMATIVE DEFENSE, Defendants
 8 allege that if the Plaintiff suffered any damages, recovery therefore is barred by Plaintiff's failure
 9 to mitigate said damages.

10 By Way of FURTHER ANSWER and ELEVENTH AFFIRMATIVE DEFENSE,
 11 Defendants allege that the Defendants are entitled to an offset from any awards to Plaintiff herein
 12 and/or recovery of back monies paid to Plaintiff.

13 By Way of FURTHER ANSWER and TWELFTH AFFIRMATIVE DEFENSE,
 14 Defendants allege that any recovery by Plaintiff is barred by reason of laches.

15 By Way of FURTHER ANSWER and THIRTEENTH AFFIRMATIVE DEFENSE,
 16 Defendants allege that they have absolute immunity from suit for the matters charged in Plaintiff's
 17 Complaint.

18 By Way of FURTHER ANSWER and FOURTEENTH AFFIRMATIVE DEFENSE,
 19 Defendants allege that the State of Washington, its agencies and agents, are not subject to civil
 20 suit for damages under the Eleventh Amendment of the Constitution of the United States.

21 By Way of FURTHER ANSWER and FIFTEENTH AFFIRMATIVE DEFENSE,
 22 Defendants allege that the claims against the Defendant are barred by the doctrines of absolute
 23 immunity.


24 By Way of FURTHER ANSWER and SIXTEENTH AFFIRMATIVE DEFENSE,
 25 Defendants allege that the claims alleged under 42 U.S.C. § 1983 against the state employees are
 26 barred by the doctrine of qualified immunity.

Defendants reserve the right to amend this answer and/or allege further affirmative
 defenses as discovery progresses.

1 WHEREFORE, Defendant, State of Washington et al., prays that Plaintiff's Complaint for
2 Damages be dismissed with prejudice as to the State of Washington, its agency Washington State
3 Patrol, and all of the individually named Defendants and that Plaintiff take nothing by his
4 Complaint and that these Defendants be allowed their costs and reasonable attorneys fees herein.

5 DATED this 28th day of January 2010.

6 ROBERT M. MCKENNA
7 Attorney General

8 

9 s/ Allison Stanhope

10 ALLISON STANHOPE, WSBA #30486

11 Assistant Attorney General

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18 Attorney for Defendants State of Washington and
19 Washington State Patrol
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PROOF OF SERVICE

I, Julie Nelson, declare that I caused to be served a copy of this document on all parties or their counsel of record on the date below as follows:

☒ **Electronically Filed with U.S. District Court-Western District**
AllisonC@atg.wa.gov; julien@atg.wa.gov; StephanieD1@atg.wa.gov

☒ **U.S. Mail, First Class, post prepaid**
Certified / Return Receipt Request
No. 7007 2560 0001 7798 5752

Michael Alexander Friedmann
16011 Third Avenue Court East
Tacoma, Washington 98445-1054

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 28th day of January 2010, at Seattle, Washington.

s/ Julie Nelson

JULIE NELSON

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